

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

JANE ROE,

Plaintiff,

Index No.

Date Purchased:

-against-

SUMMONS

DOMESTIC AND FOREIGN MISSIONARY SOCIETY OF
THE PROTESTANT EPISCOPAL CHURCH, EPISCOPAL
DIOCESE OF LONG ISLAND and
CHRIST EPISCOPAL CHURCH,

Defendants.

Plaintiff designates Nassau
County as the place of trial

The basis of the venue is the
Plaintiff's residence

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgement will be taken against you by default for the relief demanded herein.

Dated: Lake Success, New York
October 2, 2019

VISHNICK McGOVERN MILIZIO LLP

By: 

Avrohom Gefen, Esq.

Dennis Lyons, Esq.

Attorneys for Plaintiff

3000 Marcus Avenue, Suite 1E9

Lake Success, NY 11042

(516) 437-4385

Defendant's Address:

Episcopal Diocese of Long Island
36 Cathedral Avenue
Garden City, NY 11530

Christ Episcopal Church
12 Prospect Street
Babylon, NY 11702

Domestic and Foreign Missionary Society of
the Protestant Episcopal Church
815 2nd Avenue
New York, NY 10017

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

JANE ROE,

Plaintiff,

Index No.

-against-

COMPLAINT

DOMESTIC AND FOREIGN MISSIONARY SOCIETY OF
THE PROTESTANT EPISCOPAL CHURCH, EPISCOPAL
DIOCESE OF LONG ISLAND and
CHRIST EPISCOPAL CHURCH,

Defendants.

Plaintiff, by and through her attorneys, Vishnick McGovern Milizio LLP, as and for her
Complaint, states and alleges the following:

1. This Complaint is filed pursuant to the Child Victims Act of 2019 (2019 Sess. Law News of N.Y. Ch. 11 (S. 2440)) and seeks restitution for the sexual abuse Plaintiff suffered as a seven year old child, which resulted from Defendants' negligence and malfeasance in the hiring, management and supervision of their clergy, ministers and other employees.

2. Because the underlying acts involve criminal sexual assault of a minor, a highly sensitive matter by any standard, Plaintiff is entitled to the protections afforded by Civil Rights Law §50-b. Plaintiff has filed herewith a proposed order to show cause seeking a court order allowing Plaintiff to proceed in this case anonymously by using a pseudonym in all public filings, ordering all parties to refer to Plaintiff by her pseudonym in all public filings, and ordering all parties to otherwise refrain from disclosing Plaintiff's identity to any person uninvolved in this action.

PARTIES

3. Plaintiff is a sixty-one (61) year old resident in the State of New York. Plaintiff was approximately seven (7) years old at the time of the sexual abuse described herein. As will be described further herein, Plaintiff suffered tremendous and life-altering physical and psychological harm as a result of the sexual assault she experienced as a young child.

4. Upon information and belief, at relevant times, Defendant Domestic and Foreign Missionary Society of the Protestant Episcopal Church ("Missionary Society") is the corporate and legal entity of the national Episcopal Church. Missionary Society was and continues to be a non-profit entity authorized to conduct business in the State of New York, with its principal place of business at 815 2nd Ave, New York, NY 10017.

5. Upon information and belief, at all relevant times, Defendant Episcopal Diocese of Long Island (the "Diocese") was and continues to be a non-profit religious organization or entity authorized to conduct business in the State of New York, with its principal place of business at 36 Cathedral Avenue, Garden City, NY 11530.

6. Upon information and belief, at all relevant times, Defendant Christ Episcopal Church (the "Church") was and continues to be a non-profit religious organization or entity authorized to conduct business in the State of New York, with its principal place of business at 12 Prospect Street, Babylon, NY 11702.

7. Upon information and belief, Reverend Harold L. Elliot ("Elliot") was an ordained minister of the Episcopalian Church, ordained in 1959 after completion of the General Theological Seminary of the Episcopal Church.

8. Upon information and belief, Elliot died on June 5, 1986.

9. Upon information and belief, at all relevant times, Elliot was employed by the Diocese and Church and worked as a “curate,” or assistant pastor, at the Church.

10. Upon information and belief, at all relevant times, Elliot was under the direct supervision, employ and control of the Missionary Society, the Diocese and the Church.

BACKGROUND

11. In April of 1966, Reverend Harold L. Elliot was arrested and charged with six counts of first degree sodomy, second degree assault and endangering the morals of a minor, all in connection with Elliot’s sexual assault of a seven (7) year old girl in his car on April 5, 1966 in Westbury, New York. Elliot would later plead guilty to charges of first degree sodomy.

12. Upon information and belief, at the time of the sexual assault and his arrest, Elliot was a “curate” (an assistant pastor) assigned to the Church by the Missionary Society and the Diocese.

13. According to contemporaneous newspaper reports, in the ensuing police investigation, police discovered Elliot had sexually assaulted over fifty (50) Long Island children over the prior year alone.

14. Elliot had an extensive history of child molestation, sexual assault and indecent exposure, including multiple arrests for child molestation, in Maryland and West Virginia in 1964 and 1965. The police investigating Elliot noted that neither the Missionary Society, the Diocese nor the Church had filed a confidential report notifying the police department of Elliot’s history of sexual crimes, and had such a report been on file with the police department, Elliot would likely have been caught sooner.

15. Contemporaneous newspaper articles also reported police investigators as stating that police had on two prior occasions sought to question Elliot because his car matched a

description of the vehicle used in earlier sexual assaults against children, but once the police learned the owner of that vehicle was a minister they ceased pursuing that lead.

16. At the time of his earlier arrests for sexual crimes against children, Elliot was a minister for a local Episcopalian diocese in West Virginia. The charges in both West Virginia and Maryland were dropped on the condition that Elliot would be transferred to a different diocese out of the area.

17. Upon information and belief, subsequent to his arrests in Maryland and West Virginia, Elliot underwent psychiatric treatment both in West Virginia and at the General Theological Seminary of the Episcopal Church in New York City.

18. After his arrests in West Virginia and Maryland, and after his subsequent psychiatric treatment, Elliot was transferred, upon information and belief by the Missionary Society, to the Diocese in New York, where he began working at the Zion Episcopal Church in Douglaston, New York before being reassigned by the Diocese to the Church. A large percentage of Elliot's 50+ sexual assaults against children occurred while at Zion Episcopal Church in Douglaston, New York.

19. According to contemporaneous newspaper accounts, at the time of Elliot's transfer to New York, the Missionary Society, the Diocese and the Church were fully aware of and had actual knowledge of Elliot's history of child molestation and other sex crimes committed upon children in West Virginia and Maryland.

20. Upon information and belief, at the time of Elliot's transfer, it was the Missionary Society's and the Diocese's standard operating procedure for all clergy transferring to the Diocese from another diocese to undergo psychiatric evaluations.

21. Upon information and belief, despite having full knowledge of Elliot's history of child molestation and other sex crimes, the Missionary Society transferred Elliot to New York and the Diocese and the Church hired Elliot as one of their clergy and/or employees without requiring Elliot to submit to a psychiatric evaluation, deviating from their standard hiring procedure.

22. Upon information and belief, the Missionary Society, the Diocese and the Church participated in efforts to transfer Elliot from diocese to diocese and church to church in an effort to conceal Elliot's crimes from the public and protect their own reputations.

23. Defendants concealed Elliot's history of sex crimes from the community and concealed the danger Elliot posed to the community. Furthermore, by maintaining Elliot's status as a minister and employee, Defendants held Elliot out to the community as a leader within the Episcopalian faith and placed him in a position of trust within the community.

24. Defendants consciously and recklessly disregarded their knowledge of Elliot's criminal past and the likelihood that Elliot would use his role within the Church to continue to abuse children.

25. Defendants consciously and recklessly disregarded the risk Elliot posed to the safety of each community the Missionary Society and the Diocese assigned Elliot to, and specifically the risk to young children within that community and surrounding communities.

STATEMENT OF FACTS AS TO PLAINTIFF

26. Plaintiff was born in 1957 in Huntington, New York and during her childhood lived with her parents and brother in Melville, New York.

27. One afternoon in or around the Fall of 1964, when Plaintiff was seven years old, Plaintiff was playing outside with her friends, a short distance from her home. Plaintiff was stopped by Elliot who, from his vehicle, asked Plaintiff for assistance with directions. Elliot had a map with him in his vehicle, and urged Plaintiff to enter his vehicle to better see the map. Once inside Elliot's vehicle, Elliot abducted Plaintiff and brutally sexually and physically assaulted her over the course of several hours. Elliot first told Plaintiff to lock the car door so that she would not fall out and he drove to a secluded area. Elliot asked Plaintiff what color underwear she was wearing. When she said that she did not know, he told her to look. Plaintiff, a seven year old child, was wearing pants with an elastic waistband and she pulled on her waistband to look. It was then that Elliot grabbed a fistful of Plaintiff's hair and asked her if she loved her mother. Plaintiff started to cry and replied yes. Elliot then told her that she would never see her mother again unless she took her pants and underwear off. Once Elliot had Plaintiff naked from the waist down, he pulled her face into his lap by yanking her hair and placed his penis in her mouth. Elliot controlled Plaintiff's head and mouth by pulling her hair, and forced her to orally gratify him.

28. As that was happening, Elliot began asking Plaintiff if she loved her father and if she ever wanted to see him again. Elliot then turned Plaintiff around to face the passenger seat using her hair. He put Plaintiff on all fours by twisting her arm behind her back, causing severe pain. Plaintiff was sobbing and kept begging to go home. Elliot appeared to take sadistic satisfaction in Plaintiff's pain and crying. Elliot then penetrated Plaintiff's anus with his penis.

29. When the attack finally ended, it was night. Elliot drove Plaintiff back to the neighborhood where he had picked her up. Elliot pulled to the side of a busy road and asked Plaintiff if she knew how to get home from there. Plaintiff did not, but said yes, in an effort to

get out of the car. Elliot let Plaintiff out of the car and drove off. Plaintiff crossed the busy road because there were houses on the other side and started running. Plaintiff was very frightened and was in extreme pain. As Plaintiff was running down a street, a woman who knew her family asked her what was she doing out so late. After Plaintiff told the woman what had happened, the woman took Plaintiff to her home and called her mother.

30. Plaintiff reported to her parents what had happened and Plaintiff's father, a Suffolk County Police detective, participated in the ensuing investigation. Plaintiff's father took Plaintiff to Suffolk County police headquarters, where Plaintiff viewed lineups, but Elliot was never included in the lineups.

31. At the time, because Defendants concealed Elliot's crimes, Elliot was not a sex offender known to the police, and the investigation failed to identify Elliot as the perpetrator. Plaintiff was told by her family to "forget it happened."

32. As a result of the trauma inflicted upon Plaintiff, her mental and physical health, as well as her relationships with her family and friends, have suffered tremendously throughout her life.

33. Plaintiff has experienced severe bouts of anxiety, depression and guilt, and has long suffered from significant difficulties in trusting others, especially men. As a result of her trauma and ensuing anguish, Plaintiff self-medicated with illegal drugs and alcohol. Her self-medication with drugs and alcohol began as early as age fifteen, while still in high school. Plaintiff's resulting problems with alcohol and other drugs continued throughout her life, as she was a functioning alcoholic throughout much of her adult life. Plaintiff has seen numerous mental health professionals over the course of decades in attempts to treat the mental and

psychological damages which resulted from her assault. Plaintiff has further been in continuous therapy for approximately the past 12 years.

34. Plaintiff's relationships with her family also suffered tremendously as a result of the assault, and Plaintiff is estranged from her mother, and was estranged from her father at the time of his death. Plaintiff is also estranged from her ex-husband and her own children.

35. By reason of Defendants' wrongful acts as detailed herein, Plaintiff sustained physical and psychological injuries, including but not limited to, severe emotional and psychological distress, humiliation, fright, disassociation, anger, depression, anxiety, family turmoil, loss of faith, physical pain and mental anguish. These injuries are of a permanent and/or lasting nature, and Plaintiff has and will continue to expend sums of money for treatment.

AS AND FOR PLAINTIFF'S FIRST CAUSE OF ACTION
Negligent Hiring and Retention

36. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 34 above as if fully set forth herein.

37. Defendants hired, employed and retained Elliot as a minister and assistant pastor in the Church.

38. Given his history of repeated sexual assaults against children, Elliot was unfit for the position of minister and assistant pastor, as this position put Elliot in a position of trust within the community and surrounding communities and exposed numerous children within these communities, including Plaintiff, to Elliot and his inclination to molest children.

39. Defendants had knowledge of Elliot's history of repeated sexual assaults upon children, yet recklessly and negligently disregarded this knowledge in hiring, employing, retaining and supervising Elliot as a minister and pastor's assistant within the Church.

40. Defendants failed to comply with its own hiring and evaluation procedures by failing to submit Elliot to the customary psychiatric evaluation. Such a deviation is especially negligent given Defendants' knowledge of Elliot's violent and abusive past behavior.

41. Elliot, while an employee, minister and assistant pastor of the Diocese and Church, sexually assaulted Plaintiff.

42. It was reasonably foreseeable that Defendants' negligent hiring and retention of Elliot would result in the sexual assault of children such as Plaintiff.

43. As a result of Defendants' negligent hiring, retention and supervision, Plaintiff sustained permanent and/or lasting psychological and physical injuries and expended sums of money on the treatment of said injuries.

AS AND FOR PLAINTIFF'S SECOND CAUSE OF ACTION
Intentional Infliction of Emotional Distress

44. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 43 above as if fully set forth herein.

45. Defendants engaged in intentional, reckless, extreme and outrageous conduct by transferring Elliot from diocese to diocese and church to church in an effort to conceal the sexual crimes Elliot committed against children, in order to protect their own reputations. At the time Defendants took these actions, they knew or should have known that Elliot posed a significant danger to each community he was reassigned to.

46. In addition, despite hiring and retaining a minister with a significant history of sex crimes against children, in order to further protect their own reputations, Defendants failed to file a confidential police report notifying police of the presence of a person with an extensive history of sex crimes against children.

47. As a result of this extreme and outrageous behavior, Elliot gained access to and sexually assaulted numerous children across Long Island, including Plaintiff.

48. Defendants's intentional, reckless, extreme and outrageous behavior caused Plaintiff severe emotional distress and harm.

AS AND FOR PLAINTIFF'S THIRD CAUSE OF ACTION
Negligent Infliction of Emotional Distress

49. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 48 above as if fully set forth herein.

50. Defendants engaged in negligent, reckless, extreme and outrageous conduct by transferring Elliot from diocese to diocese and church to church in an effort to conceal the sexual crimes Elliot committed against children, in order to protect their own reputations. At the time Defendants took these actions, they knew or should have known that Elliot posed a significant danger to each community he was reassigned to.

51. The Diocese and Church negligently failed to notify police or anyone else that they had hired a known child rapist, despite their knowledge of Elliot's history. This prevented police and others from alerting parents and children who were vulnerable to Elliot's predations.

52. As a result of Defendants' negligence, Plaintiff was brutally raped and suffered severe physical and emotional harm.

WHEREFORE, Plaintiff demands judgment against Defendants: (1) for compensatory and punitive damages to be determined at trial; (2) for interest, costs and disbursements; and (3) for such other and further relief as the Court deems just and proper.

Dated: Lake Success, New York
October 2, 2019

Vishnick McGovern Milizio LLP



By: Avrohom Gefen, Esq.

Dennis Lyons, Esq.

Attorneys for Plaintiff

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

JANE ROE,

Plaintiff(s),

-against-

DOMESTIC AND FOREIGN MISSIONARY SOCIETY OF THE PROTESTANT
EPISCOPAL CHURCH, EPISCOPAL DIOCESE OF LONG ISLAND and
CHRIST EPISCOPAL CHURCH, Defendant(s).

SUMMONS AND COMPLAINT

Vishnick McGovern Milizio LLP

Attorneys for

Plaintiff

3000 Marcus Avenue, Suite 1E9
County of Nassau, Lake Success, NY 11042
Tel (516) 437-4385 Fax (516) 437-4395

Pursuant to 22 NYCRR 130-1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated: October 8, 2019

Signature

Print Signer's Name.....Dennis Lyons

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box

NOTICE OF
ENTRYthat the within is a (certified) true copy of a
entered in the office of the clerk of the within-named Court on

20

NOTICE OF
SETTLEMENTthat an Order of which the within is a true copy will be presented for settlement to the
Hon. , one of the judges of the within-named Court,
at
on

20

, at

M.

Dated:

Vishnick McGovern Milizio LLP

Attorneys for

To:

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3000 Marcus Avenue, Suite 1E9
County of Nassau, Lake Success, NY 11042